

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

ROBERT LEE OTTO,

Petitioner,

vs.

LEROY KIRKEGARD, et al.,

Respondents.

CV 19-05-GF-BMM-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Findings and Recommendations in this case on July 15, 2019 (Doc. 13.) Judge Johnston recommended that Petitioner Robert Lee Otto's Petition (Doc. 1) should be dismissed with prejudice for lack of merit.

Neither party filed objections to the Findings and Recommendations. The parties have waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 13) are **ADOPTED IN FULL**. Otto's Petition (Doc. 1) shall be dismissed with prejudice for lack of merit.

IT IS FURTHER ORDERED that the Clerk or Court is directed to enter, by separate document, a judgment in favor of Respondents and against Petitioner.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

DATED this 12th day of August, 2019.



Brian Morris
United States District Court Judge